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HUMAN RIGHTS COMMITTEE

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SUMMARY RECORD OF THE 1785th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 19 October 1999, at 10 a.m.

Chairperson: Ms. MEDINA QUIROGA

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 6)

Fourth periodic report of Norway (CCPR/C/115/Add.2)

1. At the invitation of the Chairperson, Mr. Wille, Ms. Indreberg and Ms. Vinnes (Norway) took places at the Committee table.

2. The CHAIRPERSON invited the Norwegian delegation to reply to the list of issues (CCPR/C/67/L/NOR) prepared by the Committee, which read:

"Constitutional and legal framework within which the Covenant is implemented (articles 2 and 4)

1. What is the current status of the Covenant within the legal system after the entry into force of the Human Rights Act?

2. Please provide information on the existence of enabling legislation with regard to giving effect to the Committee's Views under article 5 of the Optional Protocol.

Gender equality and the principle of non-discrimination (articles 3 and 26)

3. Please provide information on the practical effects of section 3 of the Gender Equality Act in overcoming concentration of women in certain types of employment. Have any concrete steps been taken to upgrade the value of 'women's traditional occupations' (para. 33)?

Rights of persons belonging to minorities and the right to self-determination (articles 1 and 27)

4. What measures of affirmative action have been taken to enable members of minorities to enjoy their language and culture?

5. How is the sustainability of traditional Sami means of livelihood protected in relation to competing uses of lands and natural resources?

6. To what extent has the decision-making competence of the Sami Assembly been increased (para. 266)? And what is the position of Norway in respect of the Sami people's right to self-determination?

The right to liberty and security of person and to humane treatment while in detention (articles 7, 9 and 10)

7. Please explain the grounds on which pre-trial detention may be enforced, and please explain why a number of persons have been kept in pre-trial detention for such long periods as described in paragraph 105. Have any measures been taken in order to reduce the length of pre-trial detention and to limit the practice to exceptional cases? Please describe the conditions of pre-trial detention.

8. With regard to the treatment of mentally-retarded persons, please provide further information on the use of the coercive measures provided for in chapter 6A of the Social Services Act (paras. 91-93). In particular, please comment on the precision of the law allowing for coercive measures, and how such measures are compatible with the Covenant.

9. Please provide further information on the legislative basis for coercive measures against psychiatric patients and statistics as to the use of such measures. Please comment on the patients' rights to review of the imposition of coercive measures in psychiatric treatment (paras. 97-100).

Right to a fair trial (article 14)

10. With regard to the questioning of child victims in cases of sexual abuse, please elaborate on the regulations and practice concerning defence counsel's right to be present and to examine the victim (para. 159).

Right to privacy (article 17)

11. Please provide information on any remedies provided to the victims of the telephone-monitoring uncovered by the investigation of the 'Lund Commission', as well as any measures taken to prevent recurrence of similar activities (paras. 187-194).

Right to freedom of religion (article 18)

12. Please provide information on the outcome of the study initiated by the Storting on the requirements of the international human rights conventions with regard to the religious instruction currently offered in primary and lower secondary school (para. 218).

Right to freedom of expression and freedom of peaceful assembly (articles 19 and 21)

13. Please comment on the provisions of the Criminal Code governing defamation and their effect on the right to freedom of expression in light of the Committee's concluding observations on Norway's third periodic report. Please also provide information on recent developments and practice on this issue.

Right to a family and non-discrimination (article 23)

14. Please provide further information and comment on the provisions in the Family Act which require that a foreign national must be legally resident in Norway to be allowed to contract a marriage in Norway (para. 242).

Non-discrimination (article 26)

15. To what extent has the State party fulfilled the positive obligation under article 26 to prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground? Does, for example, the law generally prohibit discriminatory practices by private subjects with regard to such issues as employment, schools, and access to transportation, hotels, restaurants etc.? In particular, please comment on legal and positive measures taken to overcome racial discrimination.

Dissemination of information about the Covenant (article 2)

16. Please indicate what steps have been taken to disseminate information on the submission of the fourth periodic report and its consideration by the Committee, and, in particular, on the Committee's concluding observations on the third periodic report."

3. Mr. WILLE (Norway) said that the two years which had elapsed since Norway's submission of its fourt periodic report had seen a number of new developments in the human rights field. The present Government, which had taken office in the autumn of 1997, had appointed a minister with special responsibility for development and human rights, and had made human rights one of its priorities. A comprehensive plan of action on human rights, currently in preparation, was to be submitted to parliament on 10 December 1999. The plan, covering an initial period of five years, would contain national as well as international components. In 1998, the Government had issued a report describing its policy and measures taken to improve Norway's human rights performance during the year. Such reports, intended to serve as tools in monitoring progress in the implementation of the plan of action and as means of raising awareness and providing information, were henceforth to be presented annually. Lastly, he drew attention to a report of the Government Commission on Freedom of Expression, presented earlier that autumn, proposing inter alia an amendment to article 100 of the Norwegian Constitution.

4. Ms. INDREBERG (Norway), replying to question 1 of the list of issues, said that the Human Rights Act, which had entered into force on 21 May 1999, formally gave the Covenant and its protocols the status of law. In fact, their status could be said to be semi-constitutional owing to a provision in section 3 of the Act giving them primacy over any conflicting statutory provision.

5. Replying to question 2, she said that, were the Committee to take the view that the author of a communication under the Optional Protocol had been the victim of a violation of a right set forth in the Covenant, the State would try to remedy the situation. In some cases, the mere fact of the Committee's expressing such a view would give satisfaction to the author of the communication; in others, the relevant remedy would be to reverse the administrative decision - a solution which was often applicable - to reopen the case and/or to provide financial compensation.

6. The reopening of criminal cases was governed by section 391 (2) of the Criminal Procedure Act, a draft amendment of which had been prepared by the

Ministry of Justice and received in a generally positive manner by various public and private bodies. Under that amendment, the Committee's Views under the Optional Protocol in a case against Norway would have the same effect as the judgement of an international court. It was too early to say whether the draft amendment would in fact be submitted to parliament, but even today the reopening of a case could be allowed if there were special circumstances casting doubt upon the correctness of the judgement. A similar amendment to the corresponding provision of the Civil Procedure Act was being considered for civil cases. Compensation could be paid by the State in accordance with existing general rules, both written and unwritten, on compensation for acts by public authorities.

7. Ms. VINNES (Norway), replying to question 3, said that the problem of concentration of women in certain types of employment was being addressed both through the educational system and in employment. Women already accounted for over 50 per cent of all students enrolled in Norway's universities and colleges, but they still tended to avoid taking natural science and technological subjects. Steps were being taken to encourage girls to choose those subjects and to increase the number of women studying information technology. The Government had embarked upon a comprehensive three-year project entitled "Informed Educational Choice" designed to motivate students of both sexes to make vocational and educational choices independent of traditional gender roles. Quota systems were in use in most of Norway's political parties and, subject to special agreements, in sectors of the labour market where women were under-represented. The Gender Equality Act had been amended in 1995 to allow preferential treatment of men in certain professions related to teaching and child care. Conversely, given the rapid rate at which women were migrating from rural areas, women were being given priority in the rural development support scheme, and new policy strategies were being adopted with the aim of enabling women to choose traditionally male occupations and creating new jobs in rural areas.

8. Women were still under-represented in higher scientific positions; post-doctoral scholarships were being used to help them to qualify for leading positions within the university system. Various programmes had been initiated with a view to recruiting more women to leading positions in both the public and private sectors. A project designed to increase the number of women in executive positions in public administration was under way, and a central register of women regarded as potential leaders in private business and public administration had been established.

9. As to practical steps to upgrade the value of traditional "women's occupations", it was now possible, as a result of the educational reform, to obtain formal qualifications in a number of occupations previously regarded as unskilled. The principle of equal pay for work of equal value, set forth in the Gender Equality Act, was considered very important both by the Government and by employers and employees in the private sector. The Gender Equality Ombudsman had proposed making the Act more effective by enhancing job comparability across occupational boundaries. The value of child-care work had been upgraded by the introduction in August 1998 of a cash benefit for families with one- and two-year-old children.

10. Mr. WILLE (Norway), replying to question 4, said that day-care institutions for Sami children in Sami districts were based on the Sami language and culture. A Sami curriculum for primary and lower secondary schools, comparable to the national curriculum but based on Sami culture and society, had been introduced by agreement with the Sami Assembly in 1997. Since then, the number of pupils choosing education in the Sami language had increased. The new Education Act adopted by parliament in 1998, which had entered into force on 1 August 1999, guaranteed the right to education in the Sami language in primary and secondary schools for all Sami pupils living anywhere in Norway. It also gave pupils belonging to the Sami minority the right to receive the whole of their education in the mother tongue if at least 10 pupils in the community were Sami-speaking. The Sami Assembly was to be allowed a greater say on the content of Sami educational programmes, and the responsibilities of the Sami Educational Council were to be transferred from the Ministry of Education to the Sami Assembly in January 2000.

11. Norway had ratified the Council of Europe's Framework Convention on the Protection of National Minorities in March 1999 and had declared that the Sami, the Kven, the Jewish people, the Roma, the Romani people/Travellers and the Skogfinn fulfilled the criteria for being considered national minorities. A report on government policy towards national minorities was to be presented to parliament in 2000, dialogue with minority organizations being an important feature of the policy-making process. A new grant scheme totalling 2.5 million Norwegian kroner (NKr) had been introduced with the aim of strengthening the national minorities' organizational efforts and supporting projects to combat racism and discrimination. Approximately NKr 10.5 million would be distributed in 1999 to local immigrant organizations, immigrant-managed activities and voluntary bodies focusing on multiculturalism and dialogue, and a further NKr 7 million would be distributed to nationwide organizations active in the same field.

12. In addition to the library services and broadcasts for immigrants described in the third periodic report (CCPR/C/70/Add.2), a programme for encouraging multicultural initiatives in national, regional and local cultural institutions had been launched in 1998, and a multicultural centre had been established by the Norwegian Concert Institute. Lastly, it should be noted that all primary school pupils with an insufficient knowledge of Norwegian were now entitled to receive instruction both in their mother tongue and in Norwegian as a second language.

13. In reply to question 5, he said that the Government, in consultation with the Sami Assembly and the Finnmark county council, was about to table legislation to clarify and secure traditional Sami means of livelihood. New legislation on mining, including a suspensive power of veto for the Sami Assembly in cases of serious conflict with traditional Sami land use, was already before parliament. It should be noted that the Sami Act of 1987, described in previous reports, was gradually becoming more effective as a result of the Sami Assembly's growing capacity and authority.

14. Turning to question 6, he said that the transfer of authority to the Sami Assembly was a continuous process; some significant Sami cultural institutions had been transferred recently. A revision of the Sami Act authorizing ministries to transfer authority over funds allocated for Sami

purposes had been adopted by parliament in 1998. The total budget allocated to Sami purposes in 1999 was estimated at NKr 500 million, of which approximately NKr 100 million were to be managed by the Sami Assembly. The Government had declared its intention to increase the political influence of the Sami Assembly in matters of education, business development, language and culture. ILO Convention No. 169 on indigenous rights would constitute a crucial factor in the context of the Government's forthcoming consideration of the question of land rights based upon the report of the Sami Rights Commission.

15. Ms. INDREBERG (Norway), replying to question 7, explained that under section 184 of the Criminal Procedure Act, a court could order pre-trial detention if the desired purpose could not be achieved by less stringent measures, if the measure was not disproportionate in view of the nature of the case and other circumstances, and if a number of other conditions set out in the Act were met. The fact that some suspects were being held in custody for a long period pending final judgement - which was to some extent a consequence of the 1995 reform allowing for two-tier treatment of all criminal cases - was regarded as a serious problem by the authorities. The Ministry of Justice had set up two working groups to consider ways of speeding up the process. The working groups were expected to complete their work by June 2000, and the Ministry would follow up their recommendations by proposing the necessary legislative amendments.

16. The conditions of pre-trial detention were considered to be good, with one exception. Some detainees were denied contacts with other prisoners, visits or letters on the grounds of possible interference with the investigation or destruction of evidence. Following representations by the European Committee for the Prevention of Torture, all Norwegian prison governors had been instructed to ensure that the prisoners in question were not left without any human contact and received medical follow-up. The Director-General for Public Prosecutions had instructed prosecutors to ask the courts not to impose such restrictions unless strictly necessary and never for more than four weeks at a time. The Ministry of Justice would keep the situation under review and would consider further steps to improve the situation.

17. Replying to question 8, she said that all decisions to apply coercive measures to mentally-retarded persons must be reported to the County Governor. Only a few cases had occurred so far, and the Ministry of Health and Social Affairs did not expect to be able to comment more closely on how the law was being applied until at least late 2000. The provisions were intended to be used only in relation to mentally-retarded persons with serious problems, such as violent or self-destructive behaviour. The use of mechanical means of coercion was prohibited. In the view of her Government, the provisions of the relevant passage of the Social Services Act, which had entered into force on 1 January 1999, were compatible with Norway's human rights obligations.

18. Turning to question 9, she said that a new Act relating to mental health care, replacing the 1961 Act now in force, had been adopted on 2 July 1999 and was expected to enter into force in 2001. The new Act would be described in detail in Norway's next periodic report. Under the 1961 Act, which was still in force, committal to a mental hospital against the will of the patient could

be decided upon if, in addition to having a serious mental illness, the patient would otherwise suffer harm, if the possibility of cure or considerable improvement would otherwise be lost, or if the patient represented a considerable danger to himself or others. Patients could also be committed to a mental hospital for observation for up to three weeks. Under an additional regulation adopted in June 1997, coercive measures could only be used to prevent a patient from causing harm to himself or others if less stringent measures had proved insufficient. Yet another regulation dating back to September 1984 provided that coercive treatment could only be applied if it was likely to lead to cure or considerable improvement and if the prospect of such cure or improvement would be forfeited without it. Coercive treatment could only be decided upon after a sufficiently long period of observation in an institution; furthermore, attempts had to be made to obtain the patient's consent.

19. The 1961 Act had instituted local control commissions to supervise the country's psychiatric institutions and to consider appeals from patients. Patients who appealed to the control commissions or the courts were entitled to legal representation paid for by the State. A report by a Norwegian research institute published in 1998 showed that, in 1994, coercive means had been applied to about 630 patients, or 6 per cent of all patients committed to mental hospitals. The Government was giving priority to measures to reduce the use of coercion and hoped that making voluntary mental health care more accessible would help in achieving that goal.

20. Responding to question 10, she referred to paragraphs 159 to 161 of the report, which explained the regulations in the Criminal Procedure Act, (sect. 239). The section had been amended since the drafting of the report and now stated that the judge would, as a general rule, summon a qualified person to assist with the examination of a child victim or to carry out the examination subject to the judge's control. As a general rule, the defence counsel of the person charged was to be given an opportunity to attend the examination where possible and where due consideration for the witness or the purpose of the statement did not indicate otherwise.

21. A regulation adopted on 2 October 1998 contained more detailed rules. According to section 3, the prosecutor, when applying for authority to conduct questioning outside the courtroom, must describe what he wanted the examination to uncover. Before the examination, the judge should confer with the persons who would be present to clarify what questions the parties wanted the child to answer and how the examination and interruptions or additional questions were to be handled. The defence counsel had the right to see the documents relating to the case and should receive them before the examination took place. Section 12 of the regulation gave defence counsel the right to pose questions during the examination, but only through the judge. In the circular explaining those provisions, however, the Ministry of Justice underlined the importance of letting defence counsel ask all the questions he wanted in order to avoid a later request for further questioning of the child. It also emphasized that if the results of the examination were the main evidence in the case and defence counsel had been denied the right to pose questions, there could be a breach of the right to fair trial and, more specifically, of the right to hear and examine witnesses.

22. In exceptional circumstances when the judge ruled that the defence counsel should not attend the examination, he must have access to the videotape, recording or transcription. The defence counsel could ask for a new examination, but the judge must then weigh consideration for the child against the responsibility to ensure the defendant's right to a fair trial and full clarification of the case. Officers at Oslo police headquarters, where many of the examinations took place, reported that their experience with the amendment to section 239 of the Criminal Procedure Act had been very good. They said that the guidelines set forth in the Act and the relevant regulations and circular were clear and easy to comply with. They also sensed that defence counsels wished to be present at and prepared for, the examination to a larger degree than previously.

23. Turning to question 11 relating to remedies for victims of the telephone monitoring uncovered by the Lund Commission, she said that parliament had completed its examination of the Lund Commission's report on 16 June 1997 and had asked the Government to prepare legislation on the right to see the records and registers of the Police Security Services. The resultant Act had been adopted on 17 September 1999 and would enter into force on 1 January 2000. It gave a person who had been granted the right to see his files and who had suffered serious damage the right to compensation of up to approximately US$ 13,000. The damage must be caused by the unlawful collecting or registering of information or by telephone monitoring. To prevent the recurrence of similar activities, parliament had in 1995 adopted an Act which stated that it would establish a committee to control all intelligence, security and surveillance activities performed by the State or on its behalf; such a committee was now in operation. The Lund Commission's report had made the entire population aware of issues relating to secret surveillance and the right to privacy. There was reason to believe that it had raised the awareness of those involved in intelligence, security and surveillance services, and especially of court officers.

24. Ms. VINNES (Norway), referring to question 12, said the report on the requirements of the international human rights conventions with regard to the religious instruction offered in primary and lower secondary school had been submitted in January 1997. Its main conclusion was that a general right of exemption would be the best approach, but that limited exemption would not necessarily be in conflict with the Covenants as long as the Norwegian system was consistent with them in practice.

25. One of the main principles of the Norwegian education system was that of a school for all: all peoples, regardless of gender or religious or ethnic background, were to meet and develop understanding, respect and capacity for communication. It was in that context that Christian knowledge and religious education had been introduced as a compulsory subject in primary and lower secondary school as from 1 July 1997. There was statutory right to exemption from parts of the relevant curriculum. The Education Act stated that, in response to written notification from parents, pupils were to be exempted from attending those parts of the curriculum that they, on the basis of their own religion or philosophy of life, perceived as being the practice of another religion or adherence to another philosophy. Pupils who had reached the age of 15 could give written notification of exemption on their own behalf. The exemption applied to religious activities both in and outside the classroom,

such as confession, prayers, memorization of religious texts, participation in religious hymns, services or sermons, etc. The Education Act stated that teaching of the subject must not involve preaching and the relevant travaux préparatoires expressly stated that the right of exemption was to be practised in accordance with Norway's international obligations.

26. The teaching of the new subject had met with some criticism. The Norwegian Humanist Association and the Islamic Council had brought an action against the Ministry of Education, claiming full exemption from the subject. The Humanist Association had lost its case and had appealed, while the case brought by the Islamic Council was to be heard soon. The National Education Office was responsible for monitoring on a regular basis the way the right of exemption was practised, and it produced annual reports on its findings. The most recent report gave the general impression that the teaching of the subject and the right to partial exemption therefrom were functioning satisfactorily. Parents were being provided with adequate information about content and working methods. The number of appeals against decisions to refuse full exemption had decreased significantly since 1997. Parliament had requested that the subject should be evaluated after a three-year period; the evaluation was to be completed by the Norwegian Research Council by autumn 2000.

27. Ms. INDREBERG (Norway), replying to question 13, said that the Commission on Freedom of Expression had recently submitted a report in which it proposed amendments to article 100 of the Constitution that would provide for better protection of freedom of expression. Any impediment to freedom of speech must be justified in relation to the reasons behind freedom of expression, i.e. the seeking of truth, the promotion of democracy and the individual's freedom to form his own opinion. The Commission proposed that no person should be held responsible for the untruth of an allegation if he had uttered the statement in non-negligent good faith. The Commission had also initiated and financed an external study on Norway's international obligations in respect of freedom of expression.

28. In May 1999, the European Court of Human Rights had found that there had been a breach of article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms in a case in which a newspaper, Bladet Tromsø, and its editor had been convicted of defamation. The case had raised the issue of whether interference in the freedom of speech of the newspaper and its editor was necessary in a democratic society. The court had ruled that it was not, forcing Norway to change the relevant legislation. The authorities must now consider carefully how freedom of expression should best be reflected in the law.

29. Turning to question 14, she explained that the word "resident" as used in translation from the Norwegian in the fourth periodic report should not be understood as meaning "permanent-resident". Tourists with visas, tourists not requiring visas and asylum-seekers in Norway pending the outcome of their application were thus able to marry. The persons affected by the Family Act provisions in question were those who had entered the country illegally, who had stayed beyond the time allotted for their stay or asylum-seekers who had been refused asylum. The provision did not apply outside Norway, and so there was no bar to contracting marriage in a Norwegian embassy, for example. The

reason for the provision was the increasing tendency of foreign nationals illegally in Norway to enter into pro forma marriages in order to avoid being deported.

30. Ms. VINNES (Norway), replying to question 15, said that with the adoption of the new Human Rights Act, Norway had incorporated the European Convention on Human Rights and the International Covenants into domestic law. The Norwegian Constitution contained no provision expressly prohibiting racial discrimination, and there were no legal provisions generally prohibiting discriminatory practices. Racial discrimination was regulated in a number of instruments, including the Penal Code. The Government had decided to appoint a committee to draft, within a year from January 2000, a new act for combating ethnic discrimination. The committee's mandate indicated that it was to analyse ways in which legislation on ethnic discrimination could be strengthened and consider all relevant laws on the subject. It indicated that the proposed legislation might regulate ethnic discrimination in specific areas such as the labour market, and the housing market and that special focus was to be given to ensuring full compliance with Norway's commitments under the International Convention on the Elimination of All Forms of Racial Discrimination and other human rights instruments.

31. In 1999, a new Department of Indigenous, Minority and Immigrant Affairs had been established within the Ministry of Local Government and Regional Development. That had resulted in improved coordination of efforts by the authorities to combat racism and discrimination. The Government's plan of action to combat racism and discrimination for the period 1998-2001 focused on discrimination in the labour market, the housing market, primary and secondary schools, restaurants, bars, etc. A centre for combating ethnic discrimination had been established. It was an independent governmental body that provided legal assistance to individuals claiming to be victims of religious, racial or ethnic discrimination, and monitored the type and extent of racial discrimination in Norway.

32. According to the existing House Rent Act, sub-letting parts of a dwelling required the lessor's consent. A new House Rent Act which was to enter into force in January 2000 provided that a lessor could not refuse to sub-let without sound reasons. Reasons such as the tenant's nationality or ethnic background would be regarded as discriminatory. Information material explaining that under current housing and criminal legislation it was an offence to refuse a person goods or services on the basis of religion, race or ethnic origin was under preparation for distribution to rental agencies, housing cooperatives and other institutions. A development and research programme focusing on multicultural neighbourhoods had been established.

33. In May 1999, the unemployment rate had been 6.3 per cent for immigrants compared with 2.2 per cent for the population as a whole, and that was seen as a serious problem. The Government had produced a plan of action for recruiting persons with an immigrant background to the State sector. The Working Environment Act had been amended in 1998 to add a prohibition against racial or ethnic discrimination in the recruitment process. A plan of action to improve the use of immigrants' qualifications had been evaluated in

January 1999. The processing time for approval of educational qualifications from abroad had been reduced, but major problems remained and a database was to be established in order to facilitate such processing.

34. Recruiting students with an immigrant background was a stated goal of the National Police Academy. In 1998, the Ministry of Defence had presented a plan of action to increase recruitment of persons with an immigrant background to the defence forces. The Government had undertaken a number of research and development projects on discrimination in the labour market.

35. It was clearly stated in legislation on education and in the national curricula that one of the primary objectives of education was to promote equal opportunity and to counteract discriminatory attitudes. Textbooks were to reflect a multicultural society and avoid offensive descriptions, racism or xenophobia. A number of specialized courses in upper secondary schools had been organized for pupils with an immigrant background. The courses included auxiliary language training and vocational guidance. Five tertiary educational institutions had initiated a project to incorporate multicultural understanding into courses in order to improve the qualifications of future police officers, teachers, nurses, health workers and others. The guidelines and framework for teacher training had been revised and now indicated that training was to encourage respect and tolerance for different cultures and beliefs and to combat discrimination.

36. As a measure to prevent discrimination in access to restaurants, clubs, bars, etc., the Oslo police had arranged courses for doormen in 1998 which had been deemed a success. They would continue in 1999 and also be arranged in other cities. An information folder explaining how the Oslo police district had handled complaints about discrimination in such public places would be distributed to all police districts.

37. Mr. WILLE (Norway), speaking on question 16, said the established practice was to submit a draft report to an advisory committee consisting of members of parliament, and representatives of NGOs, human rights bodies and the Sami Assembly. A plan of action on human rights was being developed and discussions were being held on how to involve civil society more closely in the drafting of reports for human rights bodies. The Committee's concluding observations on its consideration of Norway's third periodic report had been sent to the relevant ministries and had been used by them in drafting the fourth periodic report. The concluding observations were deemed important, and consideration was being given to incorporating their content into the plan of action on human rights. To that end, all the concluding observations on Norway's reports to human rights bodies were to be reviewed.

38. The CHAIRPERSON thanked the Norwegian delegation for its presentation and invited members of the Committee to ask follow-up questions on the list of issues.

39. Lord COLVILLE said it augured well for the Committee's new system of preparing lists of issues one session in advance that the Norwegian delegation had come so thoroughly prepared with texts and information on all the latest developments in human rights since 1996, when the fourth periodic report had been written. What the Committee had heard was extremely encouraging.

40. A large portion of Norway's reservation to article 14, paragraph 5, of the Covenant had been removed with the adoption of the Criminal Procedure Act of 1993, but the reservation continued to apply in certain circumstances described in paragraph 168 of the report. One such situation was when a defendant had been acquitted in the first instance but convicted by an appellate court. As he understood it, after a person had been acquitted in a court of first instance, the prosecution could appeal. A conviction could then be handed down by the court of appeal or the Supreme Court, and in the latter case there was no appeal whatsoever. He would like to know whether the delegation considered that that system should continue to exist. Perhaps consideration could be given to ensuring that for all convictions there was some system of appeal, so that errors could be rectified.

41. He had been particularly impressed, when listening to the delegation's response to question 10, by how the handling of child witnesses had progressed in Norway. The system recently introduced there could well be taken up as a model by other countries, and information on it should be widely disseminated.

42. He would like to know what had been the effect, in terms of training, of section 3 of the Human Rights Act, which provided that the Covenant and the European Convention on Human Rights took precedence over any conflicting provision in domestic law. If his country's experience was any indication, a massive training effort would have to be undertaken for the judiciary, lawyers and the police, as well as many other bodies in social services, education, housing, etc. Any information the delegation could provide on such training might well be useful to other countries in a similar situation.

43. Mr. SCHEININ said that much was being done in Norway for the promotion and protection of human rights. Following up on question 1 of the list of issues, he requested the delegation to give examples, or failing that, a prognosis, of the effect on Norwegian case law of the newly adopted Human Rights Act, and particularly section 3 giving priority to the Covenant over domestic legislation. Paragraphs 133 to 148 of the report described several Supreme Court decisions to order the expulsion and deportation of foreigners. Would the incorporation of the Covenant under the Human Rights Act have any effect on such decisions in future? He was thinking in particular of article 12, paragraph 4, of the Covenant which referred to protection from deportation of persons who resided in their "own" country. It might be necessary for Norway to revise its interpretation of residence status so that certain persons would be regarded as being in their own country even if they were not nationals of Norway.

44. On questions 5 and 6 concerning the Sami, he referred to a Supreme Court case of October 1997 involving a civil action brought by private landowners in order to prohibit reindeer from grazing in privately-owned forests. An injunction had apparently been issued by the Supreme Court to that effect. Were the special arrangements applied in Finnmark, the northernmost county, seen as being sufficient to protect the Sami's means of livelihood, or was protection considered necessary in other parts of Norway, including on privately-owned land? The Supreme Court case had also raised the issue of legal costs, which had restricted the Sami's ability to defend their rights.

Paragraph 18 of the report described the provision of free legal aid, but that was not possible in disputes between private parties, and the enjoyment of rights under article 27 might accordingly suffer.

45. He welcomed the news that the Norwegian parliament and Government were now referring to the situation of the Sami people in terms of self-determination, but in the light of that development, the coverage of self-determination in paragraph 5 of the report seemed inadequate. In future reports, information should be provided on resource rights for the Sami people in the context of article 1, paragraph 2, of the Covenant.

46. In connection with questions 8 and 9, he requested additional information on the length of judicial proceedings in cases of detention other than that of persons suspected of a crime. Referring to paragraphs 99 to 102 of the report on detention of pregnant women who abused intoxicating substances and of unidentified foreigners, he asked whether there was speedy judicial review in such cases.

47. On question 12 relating to religious instruction in schools, he requested clarification of the phrase "general right of exemption" as used by the delegation in that context. Did it mean that the religious affiliation of the pupil or parent was not tested, and even members of a church had the right to be exempted?

48. In relation to question 10, paragraph 75 of the report indicated that under Norwegian law prosecutions could be brought for serious sexual offences committed abroad against children under the age of 14, even if such acts were not considered offences in the country concerned. Did Norway have any specific programmes of cooperation with other countries to facilitate such prosecutions, given the fact that many countries where child prostitution was widespread took the attitude that there was little they could do since the persons responsible were not their own nationals?

49. Ms. EVATT commended the report for its careful examination of the issues raised by the Committee.

50. Section 3 of Norway's recent Human Rights Act stated that the provisions of human rights conventions and protocols binding on Norway would prevail over any conflicting statutory provisions. She was not clear whether that would apply to existing as well as to future legislation. While she was aware that Norway's record in respect of admission of refugees and asylum-seekers was commendable, she would nevertheless like to know what percentage of those allowed to stay in Norway had been given recognition as refugees under the 1951 Convention, and whether there was any difference between the rights and freedoms enjoyed by recognized refugees and those enjoyed by persons in other categories. Were there any provisions to ensure that those seeking asylum in Norway were not expelled before their claim was adjudicated, to a place where they could be at risk of torture or other human rights abuses?

51. With regard to question 5, would the new legislation referred to by the delegation deal with such questions as land ownership and self-determination in respect of land use and traditional occupations? It had been stated that

the Sami Assembly could refuse permission for certain activities, such as mining. Could that refusal be overruled or was it regarded as binding?

52. On question 12, could persons who wished to claim exemption from religious education for their children do so only if they belonged to a religion other than the dominant one? And were they required to disclose their religion in order to claim such exemption? Was it the case that employers in certain institutions could ask prospective employees to disclose their religion or belief?

53. Concerning question 7, she would like to know whether solitary confinement (paras. 79 and 80 of the report) could be ordered at the pre-trial detention stage, and if so whether any provision was made for independent supervision.

54. Lastly, on the question of gender equality, had the measures taken to prevent violence and sexual harassment against women been effective? And were there programmes in place to ensure that such offences were reported and that the police dealt with them in a sensitive manner?

55. Mr. YALDEN said he had been particularly interested to learn of Norway's recent Human Rights Act. Norway had earlier stated that no specific body had yet been set up to monitor implementation of human rights. Had the situation changed since that time, and was there any reference to such a body in the new Act?

56. Was there any agency responsible for monitoring and enforcing legislation on gender equality and, in particular, equal pay for equal work? He would be glad of more information about the role of the various ombudsman's offices in Norway in respect of human rights. Had any monitoring and enforcement mechanisms been put in place to implement anti-discrimination legislation? It had been stated, for instance, that refusal of housing, or refusal of entry to a restaurant, would constitute an offence. It would be helpful to know the number of cases of that kind that had occurred, how they had been dealt with, and what the outcome had been.

57. Like earlier speakers, he would appreciate more details in relation to question 6 concerning the Sami people. Paragraphs 1 to 3 of Norway's third periodic report (CCPR/C/72/Add.1) had merely stated that the Government recognized the rights of all peoples to self-determination but had not referred specifically to the Sami people. Nor was there any such reference in the fourth report, notably in respect of the crucial issue of land rights.

58. Mr. KLEIN thanked the delegation for its clear and straightforward answers to the questions posed by the Committee.

59. He noted that paragraph 50 of the report stated that a systematic review of legislation concerning public emergency situations would be carried out in 1997. What had been the outcome of that review? According to paragraph 72, there were for the time being no concrete plans for the legalization of euthanasia, and he wondered whether that was still the case. With reference

to paragraph 131, had the Passports Act now become law and, if so, what were its provisions concerning impediments to obtaining a passport and confiscation of passports?

60. Turning to question 11 of the list of issues (right to privacy), he asked what was the position when telephone monitoring revealed that the suspect was in fact innocent. Paragraph 181 of the report stated that suspects could be informed "upon request" that such monitoring had taken place, but the fact that no claims for compensation had been brought indicated that few were aware of the possibility of making such a request. Those who had been monitored should be notified after the event, so that they could seek legal remedy if there had been any violation of their right to privacy.

61. Concerning article 17 of the Covenant (right to identity), he would like to know whether an adopted person had the right to know the identity of his or her natural parents, and whether in cases of artificial insemination the identity of the donor was kept secret. Lastly, in regard to article 21 of the Covenant (right to peaceful assembly), the report stated that those organizing demonstrations must inform the police in advance or risk a fine or imprisonment. Did the law take into account the possibility that demonstrations might occur spontaneously in certain situations?

62. Mr. WIERUSZEWSKI said he was greatly impressed by how seriously Norway took its responsibilities under the Covenant, and hoped that its example would be followed by others.

63. He wondered whether pre-trial detention merely on the grounds that the person concerned might leave the country did not violate the principle of presumption of innocence, set forth in article 14, paragraph 2, of the Covenant. Was there any mechanism whereby persons so held, who had subsequently been found not guilty and set free, could claim compensation? According to paragraph 99 of the report, pregnant women who abused intoxicating substances could be confined to an institution. Was there any provision for judicial review in such cases, or was the decision left entirely to the social services?

64. He, too, was concerned over how the question of expulsion of aliens was dealt with under Norway's new Human Rights Act. It was the Committee's understanding that only very few applicants had been granted refugee status by Norway under the 1951 Convention.

65. Paragraph 170 of the report stated that all appeals would first be considered by an "appeals committee". He would like to know more about how that committee functioned, and on what criteria it based its decisions. Lastly, concerning article 26 of the Covenant, paragraph 258 (f) of the report stated that a survey of prosecution practice in cases where there was clear evidence of racial discrimination had been initiated. He would be grateful to know the results of that survey, and any measures that had been adopted in consequence.

66. Mr. AMOR said Norway's report and its record in the human rights field were outstanding and could serve as examples for others to follow.

67. He noted from the report that relations between the State and the Lutheran Church were close, and would appreciate more information on that point. For instance, did the State provide the Lutheran Church with facilities for the collection of taxes levied by it and, if so, did it provide the same facilities for other churches? Paragraph 213 of the report stated that children of parents belonging to the Church of Norway would automatically belong to that Church. Did the same apply in the case of other religions? The "moral obligation" imposed on parents who were members of that Church to bring up their children in the same faith seemed to him incompatible with both the Covenant and the Convention on the Rights of the Child. Were any measures planned to ensure that women enjoyed equal status with men in regard to appointments to positions in the Church of Norway?

68. He noted from the report that foreigners had the same rights and obligations as Norwegian citizens. Did that principle apply where the right to vote was concerned, at both local and national level? Would foreigners be permitted to engage on Norwegian territory in activities which might be deemed by some to be extremist or conducive to hatred between religions? Might the practice of polygamy on the part of certain cultural groups be condoned? He would welcome more information on the question of euthanasia, referred to in paragraph 72. How had the situation evolved in the period since the report had been prepared? And was it likely that the right to a dignified death would now be recognized by the authorities? He had been interested to learn of Norwegian legislation on the sexual abuse of minors abroad. Had any such cases come before the Norwegian courts? And what judgements had been handed down?

69. Lastly, he noted from paragraph 37 that it was for the employer to prove that any differential treatment between men and women in regard to remuneration was not due to the gender of the employee. He did not think presumption of fault on the part of the employer should be the principle applied in such cases.

70. Mr. LALLAH expressed his satisfaction that Norway had at last approved a Human Rights Act, providing itself with a charter against which it could measure its legislation and administrative action and its citizens' violatory actions. The Act would, he assumed, apply to both past and future legislation, enabling the judiciary to implement reforms the legislature had failed to make in the past. In the light of criticisms levelled at section 5 of the Gender Equality Act, he was pleased to note from paragraph 38 of the report that the legislature was considering amending that Act. He wondered, however, whether the courts themselves might not use it to rectify the situation of women's pay in all sectors, on the basis of objective criteria.

71. He had noted a curious type of discrimination in section 2 of Act No. 4 of 1977, which excluded workers in the fishing, hunting and military aviation sectors from protection against discrimination. Was there some historical reason why those particular workers were placed in the same category? Could the judiciary not rectify the situation by declaring that the provision was inconsistent with the Human Rights Act?

72. He wished to know the delegation's thinking on article 27 of the Covenant and the European Framework Convention for the Protection of National Minorities. There was a risk of discrimination, especially in the case of any "affirmative action" taken in favour of certain minorities. Did the delegation see any conflict between article 2 of the Covenant and the European Convention on Minorities, which cautioned States parties that no affirmative action should entail discrimination against any minority?

73. He was puzzled by the admission that the constitutional provision whereby persons belonging to the Lutheran faith were bound to bring up their children in that faith had not been amended, in spite of the Committee's concluding observation, following its consideration of Norway's third periodic report, that the provision conflicted with article 18 of the Covenant. The reasoning that it was not a statutory provision by which defaulters were sanctioned, but merely a moral obligation, was in itself discriminatory, existing as it did only for the Lutheran faith. Discrimination had far-reaching effects and exclusion was also an assault on human dignity. The Constitution should be amended, there being no reason why the moral obligation on Lutherans should be singled out.

74. Lastly, he wished to know how Norway's efforts to promote and protect human rights were publicized and what procedure would be followed on the delegation's return to Norway. Would it report to parliament, to the relevant ministries or to the general public?

75. Mr. HENKIN requested the delegation to elaborate on its suggestion that the Covenant enjoyed semi-constitutional status. Did that mean it was superior to legislation but inferior to the Constitution? While the exhaustion of remedies was important as a prerequisite for the consideration of communications, it should not constitute an obstacle. He wondered whether plaintiffs were aware of all the remedies available to them and whether they received any assistance in invoking them.

76. He asked whether the leaders of the Sami population were satisfied with the measures taken to improve that minority's situation. He would also like to know the delegation's views on compensating the Sami for past indignities, as well as for continuing discrimination. States parties to the Covenant had the obligation and opportunity to cooperate with the Human Rights Committee in ensuring that they themselves and others complied with its provisions. Although not referring exclusively to article 41, he would be pleased if Norway drew the Committee's attention to other countries in connection with that article. The International Court of Justice was one forum where Norway could bring pressure to bear on other countries for compliance.

77. Mr. SOLARI YRIGOYEN endorsed the praise of his colleagues for Norway's implementation of human rights standards. He had two questions relating to implementation of article 18 of the Covenant. Firstly, article 2 of the Constitution, which stipulated that persons of the Lutheran faith must bring up their children in that religion, clearly contravened article 18 of the Covenant. In her reply to question 12 of the list of issues, the Norwegian representative had said that the country's limited exceptions in religious matters were not incompatible with the Covenant. He wished to know whether such a trenchant reply constituted a rejection of the Committee's suggestion

following consideration of Norway's third periodic report, that article 2 of the Constitution should be amended. He also wished to know whether any amendment to that article was envisaged, inasmuch as the report had not been explicit on the matter.

78. Secondly, according to the report, religious education was provided in primary and lower secondary schools. Non-Lutheran parents - or pupils themselves if they were over 15 - could apply in writing for exemption from such education. Norwegian law, which provided that pupils must receive proper instruction in the Bible and Christianity as part of the cultural heritage of the country and the Lutheran faith, clearly privileged that faith. The original provisions that teachers not belonging to the Church of Norway could be exempted from teaching that religion had been repealed by parliament, so that while pupils could be exempted, teachers could not. Could a non-Lutheran teacher really be expected to provide satisfactory education in the Bible and Christianity as the cultural heritage of the Lutheran faith? By the same token, he would be interested in knowing how the teaching of other religions was guaranteed and how it was made compatible with the privilege accorded to the teaching of the Lutheran faith.

79. Mr. BHAGWATI sought clarification concerning the new Human Rights Act, which had made the Covenant part of domestic law. Since section 3 stated that the Covenant would prevail over any conflicting statutory provisions, he assumed it to refer to existing laws as well as future legislation. Were any measures envisaged to determine whether the existing legislation was consistent with the provisions of the Covenant?

80. He understood that many children from Asian and Latin American countries were being adopted by Norwegians and wondered whether any law or provision governed adoption of children brought from other countries and how their interests were protected. He also wished to know whether there were any measures for training judges and lawyers in the provisions of the Covenant since it had become part of domestic law. Had the newly appointed Court Commission, referred to in paragraph 149 of the report, made any recommendations and, if so, what had been their outcome?

81. He would also like to know whether the Government was empowered to ban strikes by imposing compulsory arbitration on trade unions in the oil industry and certain other sectors of the economy. If it was so empowered, how was that provision consistent with article 22 of the Covenant? He asked whether the Labour Dispute Act, under consideration in 1997, had been adopted and whether the provision for compulsory arbitration had been removed from the legislation. He sought clarification as to whether the statement contained in paragraph 20 of the report to the effect that chapter 9 of the Criminal Procedure Act had been extended in 1995 to victims of a wider range of sexual and other offences meant that there were still categories of aggrieved parties that were not entitled to legal aid. Did the legal aid provisions cover all civil and criminal cases? If there were other than monetary limitations, he would like to know which they were and the nature of the cases to which they applied.

82. The CHAIRPERSON invited the delegation of Norway to answer the questions put by Committee members.

83. Mr. WILLE (Norway), replying to Mr. Lallah's question concerning the publicity given to the current monitoring process, said that the NGO community and civil society were well aware of it. It had been discussed not only at inter-minsterial meetings, but with civil society at a meeting of the Government's Advisory Committee for Human Rights, which would next meet on 29 October to discuss the outcome of the process. The concluding observations of the Human Rights Committee would be distributed both at that meeting and to the relevant ministries for follow-up. In any event, the Government would welcome suggestions from all the treaty bodies on ways in which it could extend the cooperation of civil society in its human rights endeavours, a subject that would be taken into account in the plan of action to be presented on 10 December.

84. Ms. INDREBERG (Norway) said that section 3 of the Norwegian Human Rights Act, which had been distributed to Committee members, referred to both future and existing legislation. Her earlier reference to the Covenant as "semi-constitutional" meant that the courts could invoke other laws only if they were consistent with the Covenant. However, it being only a statutory provision, it could be overturned by a subsequent legislative act, so that it did not have the status of full constitutional law.

85. There was no specific body for monitoring compliance, which would continue to be the province of the courts and other supervisory bodies. Neither had Norway perused the existing legislation to ensure that it complied with the Covenant. That had been done at the time of ratification of the Covenant and the country had an ongoing obligation to do so on the basis of the Committee's general comments. It had not been considered necessary simply because the Human Rights Act had been passed.

86. It was too soon to assess the impact of the new Act. However, as one member had pointed out, Norway had long been applying the Covenant and other human rights instruments. For instance, the law on immigration contained a specific provision that the law should not be applied if it contradicted the country's international public law obligations. The Act would certainly further alert judges and other officials to Norway's human rights obligations, which would henceforth prevail in all fields.

87. With regard to the training of judges, she was aware that all public officials needed to be conversant with the new Act. When parliament had passed it, it had specifically called for a plan of action containing new training measures, especially for public officials. That plan was being prepared and would be presented on 10 December.

88. Mr. WILLE (Norway) said that, to the best of his knowledge, article 41 had never been invoked by any country, nor had its use ever been discussed in Norway, which used the European system and had been involved in three inter-State cases: two against Greece and one against Turkey.

89. The CHAIRPERSON invited the Norwegian delegation to answer the remaining questions at the following meeting.

The meeting rose at 12.55 p.m.